

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

TRACY G. CIVITILLO,
as Executrix of the Estate of Betty Jane Glazier,

Plaintiff,

ORDER AND STAY

07-CV-6612L

v.

MERCK & CO., INC.,
RITE AID OF NEW YORK, INC.,
RITE AID PHARMACY,
WEGMANS FOOD MARKETS, INC.,
WEGMANS FOOD PHARMACY,

Defendants.

On December 11, 2007, Merck removed this negligence and product liability action from New York State Supreme Court pursuant to 28 U.S.C. §§ 1332, 1441, and 1446.

Shortly thereafter, Merck filed a motion to stay the action (Dkt. #5) pending the issuance of a conditional order by the Judicial Panel on Multidistrict Litigation (“JPML”) transferring the case as a “tag-along” action to *In re Vioxx Marketing, Sales Practices and Products Liability Litigation*, MDL No. 1657, an MDL action that has been established in the Eastern District of Louisiana. On February 16, 2005, the JPML issued the conditional transfer order. It is unknown whether the plaintiff will pursue objections to that order with the JPML.

This Court has held in other cases concerning Vioxx that a stay was warranted in connection with transfer decisions by the JPML in order to conserve judicial resources, to avoid duplicative litigation, and to prevent hardship and inequity to Merck, and that a stay would not cause plaintiffs to suffer undue prejudice. *See e.g., Reid v. Merck & Co., Inc.*, No. 05-CV-6621L, slip op. (W.D.N.Y. Mar. 1, 2006); *North v. Merck & Co., Inc.*, No. 05-CV-6475L, 2005 WL 2921638 (W.D.N.Y. Nov. 4, 2005); *Krieger v. Merck & Co., Inc.*, No. 05-CV-6338L, 2005 WL 2921640 (W.D.N.Y. Nov. 4, 2005).

For these same reasons, Merck's pending motion to stay this matter (Dkt. #5) is **GRANTED**.

IT IS SO ORDERED.



DAVID G. LARIMER
United States District Judge

Dated: Rochester, New York
January 30, 2008.